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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Ninth periodic reports of States parties due in 1992*

Addendum

AUSTRALIA

[14 September 1993]

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* For the seventh and eighth periodic reports of Australia, submitted in a single document, and the summary records of the meetings at which the Committee considered those reports, see CERD/C/194/Add.2 and CERD/C/SR.915-917 respectively.

GE.93-18553 (E)

ANNEXES*

1. "Towards a fairer Australia", Social Justice Strategy, 1991-92

2. Council for Aboriginal Reconciliation Act 1991

3. Aboriginal Deaths in Custody: Response by Governments to the Royal Commission

4. Crime (Serious and Repeat Offenders) Sentencing Act (WA) 1992

5. ATSIC Annual Report 1991/92

6. "Towards a fairer Australia", Social Justice Strategy, 1992/93

7. Response to the recommendations of the Royal Commission into Aboriginal Deaths in Custody: Commonwealth Funded Initiatives

8. Anti-Discrimination Act 1991 (Qld)

9. Discrimination Act 1991 (ACT)
Eddie Mabo v. The State of Queensland, High Court of Australia, 3 June 1992, Full text of judgement

10. Multiculturalism and the Law, Report No. 57, Australian Law Reform Commission, 1992

11. Administrative Review Council Report Number 34 to the Attorney-General on Access to Administrative Review by Members of Australia's Ethnic Communities

12. The National Housing Strategy - Housing Choice: reducing the barriers, Issues Paper 6, 1992

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* The annexes, submitted in English, can be consulted in the archives of the Centre for Human Rights.

I. GENERAL

1. The present report highlights significant developments during the period January 1991 to June 1992 relevant to the Australian Government's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination. In so doing, this report serves as an update, providing analysis of relevant policy and programmes undertaken and information on outcomes and achievements.

2. As an update, this report should be read in conjunction with Australia's eighth periodic report, considered by the Committee on the Elimination of Racial Discrimination (CERD) on 6 and 7 August 1991. The eighth report provides an overview of the general legal framework within which racial discrimination is prohibited in Australia, and how the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social and cultural or any other field of public life are protected and promoted. To assist the Committee in this regard, cross-referencing to the eighth report is provided in brackets where appropriate.

3. The material included in this report should be considered in the context of the general constitutional and legislative structures in operation in Australia. General information on the legal framework within which human rights are protected and the measures taken to promote human rights in Australia are provided in the core document to be submitted by Australia. The core document will also provide information on Australia's land and people and political structure.

4. The Australian Government, in order to assist the Committee to fulfil the tasks entrusted to it pursuant to article 9, has incorporated into the report, where possible, the text of relevant laws, judicial decisions and regulations, referred herein, and separately provided to Committee members (annexes 1-5) and the Centre for Human Rights (annexes 6-12) material considered essential for the Committee's proper consideration of this report.

Australian Population Overview

5. The following information is available from the most recent (1991) census:

Total Australia population	16,849,495
Aboriginal or Torres Strait Islander Australians	257,333 (1.5%)

6. Estimated resident population by country of birth (June 1991):

Australia	77.27%
Americas	0.91%
Asia	4.13%
Oceania	0.44%
Africa, total	1.07%
Canada/USA	0.47%
Europe	13.90%
New Zealand	1.66%

Note: These Estimated Resident Population figures will be revised when final 1991 census results become available in 1993.

7. Settler arrivals by country of birth (July 1986-June 1991):

Total immigrants 645,238

Oceania and Antarctica	3.07%
New Zealand	11.88%
UK and Ireland	19.41%
Canada/USA	2.28%
South America and Other Americas	3.29%
Southern Europe	4.28%
Other Europe	6.34%
Middle East	5.06%
Africa	5.21%
Southeast Asia	21.91%
Northeast Asia	11.77%
Southern Asia	5.49%

8. The Australian Government continued to pursue its National Agenda for a Multicultural Australia, released in July 1989. The implementation of all National Agenda initiatives have either been finalized or are nearing completion.

9. National Agenda initiatives such as the Community Relations Strategy, strengthening of the Access and Equity Strategy and legal reviews which include specific recommendations regarding the law reform process to make the legal system more appropriate to Australia's ethnically diverse society are referred to in the body of this report.

10. The Australian Government strengthened its commitment to the pursuit of a range of programmes to address the continuing effects of disadvantage experienced by Aboriginal and Torres Strait Islander Australians.

11. The most significant development during the reporting period was the tabling of the Final Report of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) and the responses by the Australian, State and Northern Territory Governments to the report's recommendations, and the passage of the Council for Aboriginal Reconciliation Act 1991.

12. The present report also includes, where possible, particular information requested by the Committee during its consideration of the above-mentioned reports on 6 and 7 August 1991.

13. The Australian Government appreciates the careful and detailed consideration accorded by the Committee to earlier reports and looks forward to continuing, fruitful consideration of its ninth report. It is in part through such consideration that the standards to which States parties to the Convention aspire may be fully and satisfactorily realized to the benefit of all individuals.

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

Australian Government measures

14. A central objective of the Australian Government is the achievement of a fair and more just society. The ethnic, racial and religious diversity of Australia means that there exist barriers of race, language and culture which continue to prevent some Australians from gaining a fair share of society's benefits. The Government recognizes that certain, often critical, government services, can miss some of their intended clientele unless special efforts are made to overcome these barriers. The Government's multicultural policies are directed towards eliminating these barriers.

15. As part of its community consultation responsibilities, and following an evaluation of the mechanisms for communication between the communities and the Australian Government, the Office of Multicultural Affairs Group Facilitator Network, now called the Bilingual Consultants Network, has been further developed and strengthened. It now consists of 400 consultants representing 50 languages and broad community networks Australia-wide.

16. The term of appointment of the members of the Advisory Council on Multicultural Affairs, which was established in 1987 has expired. The Australian Government has yet to make a decision on its future.

17. The Australian Government's Access and Equity Strategy was adopted in 1985. Its objectives are to remove linguistic, cultural, racial and religious barriers to access in the design and delivery of all government programmes and services and ensures an equitable distribution of the resources it manages on behalf of the whole community. The principal mechanism of the Strategy is a set of requirements on all government departments and agencies to plan, implement, review and report on steps to ensure fair outcomes for all community groups.

18. In 1991, a major cross-portfolio evaluation of the Access and Equity Strategy was commenced. The major findings of the evaluation, which was released in late 1992, are that:

(a) Progress has been made in reducing the barriers relating to language, culture, race and religion which confront the Access and Equity Strategy target groups;

(b) The Strategy created a consciousness among managers and a climate conducive for a change to occur;

(c) The impact of the Strategy varied on both clients and Departments; the net effect on the part of the clients was to improve their access to services delivered by the Government while for Departments and agencies the Strategy acted as an additional stimulus for change in the way they delivered services;

(d) Barriers, however, did remain and there were a number of examples of these. In language services interpreters were often not available or not used appropriately. Staff did not always seem to be trained in the use of the Telephone Interpreter Service;

(e) Cultural barriers existed on both sides of the counter. Certain cultural attitudes originating in home country practices could have a negative impact on interaction. Heightened staff sensitivity was not universal, particularly when dealing with Aboriginal and Torres Strait Islander clients. Locational factors made access to services difficult;

(f) Race and religious barriers did not appear to be very marked, except in the case of Aboriginal and Torres Strait Islander peoples and Muslim women.

19. The final report is available to the committee for its consideration. A revised set of requirements has been put in place and all 43 recommendations of the evaluation were endorsed by the Government.

20. As part of the Access and Equity Strategy, the Disability Programs Division of the Department of Health, Housing, Local Government and Community Services has introduced a number of reforms which aim to improve the targeting of services and service quality. These are:

(a) Needs-based planning;

(b) The setting of non-English-speaking background programme targets for new places in the disability programmes;

(c) The development of guidelines for new service funding which are based on stronger access and equity criteria (Section 5 - Guidelines); and

(d) Development of national standards for disability services which take into account the cultural, social and racial needs of consumers.

In addition to the above administrative initiatives, the Disability Programs Division has funded a number of specific services and projects as part of a broader Program strategy to improve access to services for people from non-English-speaking backgrounds, including dissemination of culturally appropriate information to people from a non-English-speaking background and the funding of the first ever national conference on disability within ethnic communities conducted in late 1992.

21. The Australian Government is the major provider of funding for a number of employment options and of employment-related services for people with disabilities. Following four years of national and international consultation, the Senate Standing Committee on Community Affairs released its report, entitled "Employment of People with Disabilities", in April 1992. The report made over 100 recommendations, including many relating to access and equity and social justice matters. In particular, the report identified the specific needs of people with disabilities of Aboriginal and Torres Strait Islander background (including those in urban and rural areas) and those of people from non-English-speaking backgrounds. The Disability

Programs Division has implemented strategies consistent with these recommendations, including, for example, the organization of a national conference (in October 1992) to examine the specific needs of people with disabilities of Aboriginal and Torres Strait Islander background.

22. The central objective of the Australian Government's social justice strategy is to develop a fairer, more prosperous and just society for every Australian. The strategy is directed at expanding choices and opportunities for people so that they are able to participate fully as citizens in economic, social and political life and are better able to determine the direction of their own lives.

23. The implementation of a Government response to the National Aboriginal Health Strategy (NAHS) has the objective of gaining equity in access to health services and facilities for Aboriginal and Torres Strait Islander peoples by the year 2001. This process involves the cooperation of States/Territories with Aboriginal and Torres Strait Islander communities and the Commonwealth Government in a partnership to address health.

24. The capacity to make such choices is constrained for many people, however, because of factors such as inadequate income, gender, race, location or disability. The strategy addresses the disadvantages that often result from these factors and seeks to reduce the incidence, severity and duration of disadvantage so that all in society can have a decent standard of living and expanded choices.

25. An important element of the Australian Government's commitment to social justice has been a series of social policies giving Aboriginal and Torres Strait Islander Australians much more control over their own destinies and helping migrants adjust to Australian life. Developments and outcomes under this strategy include:

(a) The establishment of the Aboriginal and Torres Strait Islander Commission (ATSIC) in 1990 was a concrete step towards the implementation of the policy of self-management for Aboriginal and Torres Strait Island Australians. ATSIC aims to promote the participation of indigenous groups in the formulation and implementation of policies affecting them and to further their economic, social and cultural development. Elected Commissioners now make national decisions in Aboriginal and Torres Strait Islander affairs and 60 elected Regional councils decide the priorities, needs and the allocation of funding for their areas;

(b) Promotion of the Community Development Employment Projects (CDEP). The scheme offers 20,000 Aboriginal and Torres Strait Islander Australians an opportunity to replace unemployment with work on a variety of community-development projects and enterprises. The number of participating communities has increased from 18 in 1982/83 to 185 in 1992. In its final report, the RCIADIC described the CDEP scheme as "a source of dramatic change in many communities". In particular, it noted the role of the CDEP scheme in addressing the social problems associated with unemployment and its positive effects on Aboriginal and non-Aboriginal relations in country towns;

(c) An increase in real per capita expenditure by the Australian Government of over 65 per cent since 1982 on Aboriginal and Torres Strait Islander programmes;

(d) The number of ABSTUDY recipients who stay in schooling to Year 12 (matriculation) has increased from 10.6 per cent in 1982 to 31.2 per cent in 1992. The number of Aboriginal and Torres Strait Islanders going on to higher education has increased 5½ times since the early 1980s, compared to 58 per cent growth nationally in the student population; and

(e) Additional steps, such as the RCIADIC and the establishment of the Council for Aboriginal Reconciliation in December 1991, will provide additional impetus for the Social Justice Strategy as it affects Aboriginal and Torres Strait Islander Australians.

26. In addressing the needs of migrants, the past decade has seen great strides in the development of comprehensive policies and programmes to address the fact that Australia is a multicultural society. This has been highlighted by the Australian Government's National Agenda for a Multicultural Australia, the Community Relations Strategy and settlement services.

27. There are currently more than 50 projects under the Community Relations Strategy involving Australian, State and local governments, community organizations, schools, police and the media. The management of the strategy was entrusted jointly to the Human Rights and Equal Opportunity Commission, the Aboriginal and Torres Strait Islander Commission, the Department of Immigration, Local Government and Ethnic Affairs and the Office for Multicultural Affairs. Funding was allocated for a three-year period with the aim of improving relations between all sections of the Australian community and encouraging respect for ethnic diversity.

28. The implementation of the Strategy commenced in April 1991 and was finalized in the latter half of 1992, its original time-frame being extended. The overall evaluation of the Strategy has already started and is expected to be completed in April 1993. Outcomes and trends already emerging from the Strategy indicate that:

(a) Ongoing support is needed for locally based community relations initiatives;

(b) There is a great demand for cross-cultural awareness training;

(c) There is an important role for the local government to be played in community relations; and

(d) To ensure harmonious community relations, support should be given to the development of long-term objectives and implementation of ongoing strategies.

29. In February 1991, the Office of Disability of the Disability Programs Division established a National Working Group on Consumer Rights to develop recommendations on strategies for improving and protecting the rights and acknowledging the responsibilities of consumers of services operated or funded

by the Department's Disability Program. The Working Party included people from non-English-speaking backgrounds and Aboriginal and Torres Strait Islander people. The Working Party developed a National Strategy for Consumer Rights and Responsibilities for People with Disabilities, which it released in March 1992. The Strategy made some 49 recommendations, including the need for services to develop communication and consultation strategies which meet the needs of ethnic groups. The Office of Disability has responsibility for the implementation of many of these recommendations.

The Racial Discrimination Act 1975

30. The Racial Discrimination Act (RDA) operates to prohibit all forms of racial discrimination in all Australian jurisdictions, federal, State and Territorial, including those enumerated in article 5 of the Convention. Section 6 of the RDA states in part:

> "6. This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island ..."

The Act applies, therefore, throughout Australia in every jurisdiction and no separate legislation by States and Territories is required to ensure Australia's compliance with the Convention. Most States and Territories, however, have also legislated in this area and thus, individuals may choose to pursue their complaints under either the Federal or the relevant State or Territory scheme.

31. On 22 December 1990, section 9 of the RDA was amended to make it clear that the prohibition of racial discrimination extends to acts of indirect racial discrimination. The amendment was deemed necessary because there existed doubt as to whether section 9 of the RDA extended to indirect racial discrimination. Subsection 9 (1) of the RDA provides:

> "It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life."

There was concern that a Court might take a narrow view of the words "based on" and find that the section only applied where the act was motivated by racial considerations. The prohibition on indirect discrimination is now subsection 9 (1A) of the RDA which states:

> "Where:
>
> (a) a person requires another person to comply with a term, condition or requirement which is not reasonable having regard to the circumstances of the case; and (b) the other person does not or cannot comply with the term, condition or requirement; and (c) the requirement to comply has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, by persons of the same race, colour,

descent or national or ethnic origin as the other person, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life; the act of requiring such compliance is to be treated, for the purpose of this Part, as an act involving a distinction based on, or an act done by reason of, the other person's race, colour descent or national or ethnic origin."

32. It is now clearly not necessary to show a discriminatory purpose, intention or motive in order to establish that an unlawful act has occurred.

33. The RDA was also amended to remove the requirement that race, colour, descent or national or ethnic origin be the dominant reason for an act of discrimination and to make employers vicariously liable for the discriminatory acts of their agents and employees except where the employers can establish that they took all reasonable steps to prevent the discriminatory acts occurring.

The Human Rights and Equal Opportunity Commission Act 1986

34. Further to Australia's eighth report, although this Act does not make discrimination unlawful (unlike the RDA), it allows the Human Rights Commissioner to investigate and conciliate complaints of discrimination and alleged violations of human rights, and report unconciliated complaints to the Federal Attorney-General.

35. There are 19 grounds covered by the legislation with respect to discrimination in employment and occupation, of which race is one. In practice, however, under federal legislation all complaints of discrimination in employment on the basis of race are investigated and conciliated under the RDA.

36. During the reporting period, HREOC entered into cooperative arrangements with the Queensland and Australian Capital Territory Governments, both of which recently introduced their own anti-discrimination legislation. Under these arrangements, the Commission administers the State/Territory legislation and has established new offices in the ACT, Cairns and Rockhampton, and increased staff numbers in its Brisbane office.

37. HREOC has State/Territory Regional Offices in Tasmania and the Northern Territory, which have yet to pass anti-discrimination legislation.

38. In response to a recommendation of the RCIADIC, the Australian Government has agreed to establish the office of the Aboriginal and Torres Strait Islander Social Justice Commissioner within HREOC. The Commissioner's major responsibility will be to prepare for the Australian Government an annual "State of the Nation" report on the enjoyment and exercise of human rights and fundamental freedoms by Aboriginal and Torres Strait Islander peoples and on any action necessary to secure Aboriginal and Torres Strait Islander peoples the full and equal enjoyment of their human rights and fundamental freedoms. One focus of the new Commissioner's first report is expected to be the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody.

The Council for Aboriginal Reconciliation Act 1991

39. Australia has established a formal process of reconciliation between Aboriginal and Torres Strait Islander people and other Australians, over the decade to 1 January 2001, the centenary of Australia's federation. This initiative recognizes that action is needed to tackle community awareness and attitudes, as well as to address specific areas of disadvantage. The process has been formulated to keep faith with indigenous peoples' aspirations, and to open up the potential for a substantial evolution in indigenous and non-indigenous relations in the lead up to 2001, including the consideration of a formal document or documents of reconciliation. The Council for Aboriginal Reconciliation Act 1991 was passed by the Australian Parliament, attracting unanimous support from all political parties. The Council has 25 members representing a range of interests in the community, including 12 Aborigines and 2 Torres Strait Islanders.

40. The process of reconciliation will focus on three key areas:

(a) To promote a deeper understanding by all Australians of the history, cultures, past dispossession and continuing disadvantage of Aboriginal and Torres Strait Islander peoples and the need to address that disadvantage.

(b) To foster a national commitment from governments at all levels to cooperate to address progressively Aboriginal and Torres Strait disadvantage and aspirations in relation to land, housing, law and justice, cultural heritage, education, employment, health, infrastructure, economic development and other relevant matters; and

(c) To consult with Aboriginal and Torres Strait Islander peoples and the wider community and to advise the Government on whether reconciliation would be advanced by a formal document of reconciliation, and on its content.

The Royal Commission into Aboriginal Deaths in Custody

41. The Final Report of the RCIADIC was tabled in Parliament on 9 May 1991. The Royal Commission, jointly commissioned by the Australian, Northern Territory and all State Governments, inquired into the deaths of 99 Aboriginal or Torres Strait Islander people in police custody, in prison, or in youth detention institutions between 1 January 1980 and 31 May 1989. The RCIADIC investigated both the causes of the specific deaths and the underlying social, cultural and legal issues associated with them. The RCIADIC represents the most comprehensive and critical examination of the social conditions of indigenous Australians.

42. The report found that Aboriginal and Torres Strait Islander peoples are over-represented in custody at a rate 29 times that of the general community. The major factor contributing to the over-representation of Aboriginal and Torres Strait Islander peoples in custody was their disadvantaged and unequal position in Australian society. The RCIADIC found that those who died did not lose their lives as a result of unlawful violence or brutality. They were found to have lived lives as victims of entrenched and institutionalized racism and discrimination.

43. The report's 339 recommendations are directed to all levels of government, Aboriginal communities and organizations, education institutions and the media. They cover such areas as law and justice, diversion from custody, policing and custodial practice, health, education, employment, community infrastructure, self-determination and national reconciliation.

44. In December 1991, as an immediate response to the final report, the Australian Government committed an amount of nearly $7.9 million for a package of immediate measures in 1991/92 and 1992/93, comprising $2 million in additional funding for Aboriginal Legal Services, $2 million for support and counselling for the bereaved families and $3.9 million for a range of initiatives by State and Territory Governments to improve conditions in custody, provide appropriate training and recruitment in relevant areas, and reduce incarceration rates.

45. On 31 March 1992 the first-stage response by Australian, State and Territory Governments to the report's recommendations was tabled. A package of government programmes totalling $150 million over the five years 1992/93 to 1996/97 was also announced, focusing on law and justice, combating alcohol and substance abuse, human rights and related areas. These included:

(a) $71.6 million for innovative community-based action to prevent and counter alcohol and substance abuse, especially by young people;

(b) $50.4 million for additional support to Aboriginal Legal Services;

(c) Nearly $7 million for the establishment by Aboriginal and Torres Strait Islander organizations of supervised Youth Bail Hostels;

(d) $7.5 million for reforms to policing, custodial arrangements, criminal law, judicial proceedings and coronial inquiries, including cultural awareness programmes;

(e) $3.1 million for strengthening HREOC's capacity to inform Aboriginal and Torres Strait Islander communities about human rights issues and legislation, and for the development, with the National Aboriginal and Islander Legal Services Secretariat, of an accredited National Aboriginal Legal Service Field Officer Training Course;

(f) $1.9 million to enhance the capacity of Link Up services to assist Aboriginal people forcibly separated from their families to locate and reunite with them;

(g) $4.4 million for a special National Survey of Aboriginals and Torres Strait Islander people to complement information from the census and other sources and to provide an improved basis for policy and programme decisions by the Governments; and

(h) $4.3 million for ATSIC to establish a monitoring unit to oversee and report on progress in implementing the Royal Commission's recommendations.

46. The second-stage response to the Royal Commission, totalling $250 million over the same five years, was announced on 24 June 1992. This second package

has a strong focus on economic development in Aboriginal and Torres Strait Islander communities and seeks to improve economic and social well-being. In addition to major employment initiatives, it includes action to improve Aboriginal and Torres Strait Islander access to pre-school education and to provide more Aboriginal education workers to improve the outcomes of education for Aboriginal and Torres Strait Islander peoples. Economic, employment and training measures include:

(a) $60 million to ATSIC for additional land acquisition and development, with emphasis on purchases for sustainable development, which increase community income, and provide employment and enterprise opportunities;

(b) $43.9 million for expansion of the CDEP, resulting in jobs for 2,250 Aboriginal and Torres Strait Islander people;

(c) $23.3 million for Community Economic Initiatives Scheme to foster enterprises which will contribute significantly to community development, provide employment opportunities and reduce welfare dependence;

(d) $21.9 million for a Young Person's Employment Programme to provide work placements largely within Aboriginal organizations and linked to technical and further education (TAFE) training;

(e) $15 million for the development of strategies and specific projects in the arts, pastoral and tourism industries, which offer natural scope for Aboriginal and Torres Strait Islander people to earn income in their own communities;

(f) $10.6 million for expansion of the Australian National Parks and Wildlife programme for Aboriginal and Torres Strait Islander participation in managing natural and cultural resources; and

(g) $6.5 million (over three years) for an Aboriginal rural resources programme to encourage enterprise, particularly in managing rural properties.

47. The package of measures specifically for Aboriginal and Torres Strait Islander young people includes:

(a) $23 million for a Young Peoples' Development Program to encourage planned community action to meet youth needs, through such measures as employment of community youth workers, cultural education provided by elders, and assistance to young people to move from detention or institutions back into the community;

(b) $9 million for an Aboriginal Youth Sport and Recreation Development Programme;

(c) $20 million for 200 additional Aboriginal Education Workers in schools; and

(d) $10 million for 600 more pre-school places for Aboriginal and Torres Strait Islander children in 1994.

48. In addition, $6.9 million are being set aside for measures to improve cooperation between the Commonwealth, States and Territories and to assist them in monitoring initiatives arising from the Royal Commission.

49. Both major packages were developed with, and received the endorsement of, ATSIC and followed extensive consultation with indigenous people. The initiatives are intended to assist Aborigines and Torres Strait Islanders to increase self-reliance by focusing on community initiatives and long-term strategies.

50. As part of a comprehensive and open system of reporting on progress in implementing the report's recommendations, ATSIC has been given special responsibility to monitor and report to Government and the Aboriginal and Torres Strait Islander community on the extent to which the Government has implemented recommendations. An Annual Statement on progress will be tabled in the Australian Parliament and similar arrangements have been agreed by most States and Territories. In addition, overall progress in the human rights situation of Aboriginal and Torres Strait Islander people will be identified in an annual State of the Nation report to be prepared by the Aboriginal Social Justice Commissioner. A special Unit has been established within HREOC to undertake this task. Accordingly, HREOC will, in effect, act as a watchdog over the nation in its achievement of social justice for Aboriginal and Torres Strait Islander peoples.

Other Australian Government measures

51. A draft law and practice report has been prepared in consultation with relevant Australian and State/Territory authorities outlining in detail the degree of compliance by Australia with ILO Convention No. 169. In addition, the views of relevant non-governmental organizations and Aboriginal and Torres Strait Islander communities are being sought about possible ratification of the Convention. A decision about whether Australia will ratify the Convention is expected in 1993.

State government measures

52. The Queensland Anti-Discrimination Act 1991, which came into force on 30 June 1992, makes discrimination unlawful on the basis of 13 grounds. Such grounds include race in employment, education, goods and services, superannuation and insurance, disposal of land, accommodation, club membership, administration of State laws and programmes in local government. In addition, the Act provides that a person must not "by advocating racial or religious hatred or hostility, incite unlawful discrimination or another contravention of the Act."

53. The Australian Capital Territory's Discrimination Act 1991 came into force on 20 January 1992. The Act makes discrimination on the basis of 11 grounds, including race, unlawful in such areas as employment, education, access to premises, education, goods, services and facilities and clubs. The new Act also makes racial vilification unlawful.

54. The Tasmanian Government introduced a bill into Parliament to create anti-discrimination legislation in 1991, but the bill lapsed in January 1992

with the dissolution of Parliament. The subsequent Tasmanian Government has indicated that it will not proceed with the anti-discrimination legislation.

55. The Northern Territory's Anti-Discrimination legislation was passed in 1992. The legislation prohibits discrimination on the grounds of race in a number of areas including education, employment, provision of accommodation and goods and services.

56. During consideration of Australia's eighth periodic report, the Committee sought information as to why Victoria's Equal Opportunity Act 1984 was "re-enacted". The original Equal Opportunity Act 1977 was designed to deal with discrimination on the grounds of sex or marital status only. Whilst other grounds were added over the years, for example by the Equal Opportunity (Discrimination Against Disabled Persons) Act 1982, the coverage remained limited. In 1984 a new Act was passed which covered discrimination in relation to sex, marital status, race, impairment and discrimination on the basis of being a parent, being childless or a de facto spouse. Given the much broader coverage of the legislation it was thought appropriate that an entirely new Act be passed.

57. In March 1992 the New South Wales Department of School Education released its anti-racism policy statement. Through this policy, the Department rejects racist behaviour and makes a commitment to eradicating racial discrimination in the learning and working environment. The policy is designed to ensure that individuals and groups are provided with an education in such a way so as not to be disadvantaged because of their race, culture, ethnicity, national or religious background. The statement also provides the framework for the development and implementation of racial discrimination and harassment grievance procedures in schools. These procedures will provide avenues of redress to those students and employees who are subject to racial discrimination. External avenues of complaint will always remain open.

Special measures

58. The objective of the Australian Government's Land Acquisitions Program is to acquire land for the social, economic and cultural benefit of Aboriginal and Torres Strait Islander communities. The programme is administered by ATSIC. ATSIC Commissioners have emphasized that the land acquisition programme is integral to efforts to address the underlying cause of the Aboriginal and Torres Strait Islander disadvantage.

59. Procedures for the funding of applications to acquire land include an assessment of whether the proposal will enhance the economic or social circumstances of Aboriginal or Torres Strait Islander communities and whether it will further the objectives of other Commission programmes. Since 1972 the Australian Government has provided approximately $55 million for the acquisition of some 170 properties.

60. As part of the second stage of the Australian Government's response to the recommendations of the RCIADIC, there will be an additional $60 million for land acquisition and development over the next five years. This money

will be used on acquisitions for sustainable development which increase community income and provide employment and enterprise opportunities for Aboriginals and Torres Strait Islanders.

61. An issue which impacts directly on the lives and aspirations of all indigenous Australians is the decision of 3 June 1992 by the High Court of Australia in the case of Mabo and Others v. Queensland [No. 2] 1992 (the Mabo case). The Mabo case concerned the legal rights of the Meriam people to the lands of the Murray Islands in the Torres Strait. The High Court held, by a 6 to 1 majority, that the common law of Australia recognizes a form of native land title to be determined in accordance with indigenous law and custom. It rejected the notion that Australia was a terra nullius, that is, land belonging to no one, at the time of settlement, and that native title to the land did not survive the vesting of radical title in the Crown at British settlement.

62. The majority also held that native title is capable of being extinguished by indigenous peoples losing their traditional link to the land, or by inconsistent legislation or government actions. In the case of the States and Territories, any action that extinguishes native title must be in accordance with Commonwealth laws, in particular the RDA. Of most relevance are sections 9 and 10 of the RDA. In summary, section 9 makes it unlawful for a person to do any act involving a distinction based on race which has the effect of impairing the enjoyment of any human right. Section 10 provides that where by reason of any law persons of a particular race do not enjoy rights enjoyed by persons of another race, then by force of that section the first mentioned persons enjoy that right to the same extent.

63. The decision is likely to be most relevant to those of Australia's indigenous peoples who continue to lead a traditionally orientated lifestyle and maintain a traditional connection with land where native title has not been extinguished by, for example, an invalid grant of an inconsistent interest in land by the Crown.

64. The majority judgement argues that the Court could not perpetuate a view of the common law which was unjust, out of step with international human rights, did not respect all Australians as equal before the law, and did not reflect historical reality.

65. The concept of native title is new to Australian law. The Australian Government has welcomed the decision and has recognized the complexity of the High Court's decision and its implications. These implications need to be considered carefully and as quickly as possible. The Government therefore has initiated consultations with State and Territory Governments, key Aboriginal and Torres Strait Islander organizations and the mining and pastoral industries before deciding on the long-term approach to the implications of the decision. A final report is to be available to the Government by September 1993 which will allow decisions to be taken which protect Aboriginal and Torres Strait Islander rights and give benefits to all Australians.

66. In March 1986, the Australian Government adopted a State-by-State approach to Aboriginal land rights. This approach recognizes the differing needs and situations in each State and Territory. Under this policy, the

Government encourages the States to make provision for land rights on a basis that will meet national objectives. The Government remains prepared to consider enacting land rights legislation where a State or Territory is unable, or unwilling, to do so.

67. The Australian Parliament, in the preamble to the Council for Aboriginal Reconciliation Act 1991, unanimously called for an ongoing national commitment from Governments at all levels to cooperate and coordinate with the ATSIC, as appropriate, to address progressively Aboriginal disadvantage and aspirations in relation to land as part of the reconciliation process.

68. The Queensland Parliament recently passed the Aboriginal Land Bill 1991 and the Torres Strait Islander Land Bill 1991. The legislation came into effect on proclamation in March 1992. The Act provides for:

(a) An improved form of title - inalienable freehold title - to lands currently held under deeds of grant in trust (DOGIT), Aboriginal Shire leases (Aurukun and Mornington Island), and Aboriginal reserves;

(b) Vacant Crown land outside towns and cities being made available (by a process of gazettal) for claim, which will be on the basis of traditional or historical association (with inalienable freehold title) or for economic and cultural reasons (with leasehold title). A tribunal will hear claims, with appeals to the Land Appeals Court;

(c) National parks being identified and gazetted as available for claim on traditional or historical association grounds, with inalienable title, but with a requirement for immediate lease back to the State in perpetuity as a National Part (Aboriginal land) and that it be managed in accordance with a Plan of Management which is drawn up in consultation with and implemented by a Board of Management which includes representatives of the successful claimants. The Act and relevant sections of the Nature Conservation Act 1992 allow scope for negotiations over such matters as an exercise of traditional hunting and gathering rights, use of designated areas for certain community purposes, protection of the areas of cultural and natural resources and guarantee involvement of the relevant Aboriginal people in the management of the Park;

(d) Land being held by trustees, without a system of land councils. A 15-year sunset clause will apply on the lodging of claims;

(e) Separate arrangements for the Torres Strait Islands which will take into account the traditional rights of individuals in relation to land;

(f) Landowners will have a power to consent to exploration and mining, as on DOGIT land at present, but it will be possible for this to be overridden by the Governor in Council. Ownership of minerals will remain with the Crown. A proportion of mining royalty equivalents will be allocated for the benefit of the landowners, and another proportion for the benefit of Aboriginal and Torres Strait Islander peoples generally. These proportions have yet to be specified; and

(g) There is no fund for the acquisition of land.

69. In June 1992, the first title deeds were transferred under the new legislation to Aboriginal trustees at Weipa and Port Steward. Other Acts remain operative; however, the future role of Aboriginal Community Councils, established under Community Services legislation and given various powers under other statutes, remains unclear in relation to their title-holding capacity.

70. In Australia's fourth periodic report reference was made to the Archer River Pastoral Holding and the refusal by the then Queensland Government to grant or transfer the property to Mr. John Koowarta. This refusal was held by the High Court on 11 May 1982 to be in contravention of the RDA. Mr. Koowarta subsequently continued proceedings in the Supreme Court of Queensland against the Queensland Government. Mr. Koowarta died on 29 August 1991 without gaining possession of the Archer River property or securing compensation for its conversion into a national park. Its conversion took place on 12 November 1987 by declaration in the Queensland Government Gazette. On 19 December 1991, the Governor in Council declared Archer Bend National Park to be claimable land under the Aboriginal Land Act 1991. Members of Mr. Koowarta's immediate and extended family are expected to be among those involved in the claim over Archer Bend National Park.

71. In December 1991, the South Australian Government amended the Maralinga Tjarutja Land Rights Act 1984 and made an additional grant of 3,600 square kilometres of land to the Maralinga communities, including the traditional and historic sites around the Ooldea Mission.

72. Negotiations between the Australian Government and the British Government on the issue of site rehabilitation and Aboriginal compensation concerning British nuclear testing at Maralinga are close to finalization and the Australian Government has indicated that the Maralinga Tjarutja people, whose land was affected, will be consulted and involved in the rehabilitation process.

73. In April 1991, the former State Government of Tasmania introduced an Aboriginal Lands Bill which included provisions for the vesting of approximately 540 square kilometres of land in the Tasmanian Aboriginal Land Council (TALC). The Bill did not provide for financing the operation of the TALC nor did it specify the security of tenure over lands which have been vested. The Bill was defeated in the Upper House of the Tasmanian Parliament in July 1991.

74. The present government, elected to office in February 1992, has announced that it has no plans to grant land rights to Aboriginal people in Tasmania.

75. A conference was convened in March 1992 by the Australian Ministers for Aboriginal and Torres Strait Islander Affairs and Resources and Tourism to discuss concerns about the operation of the mining provisions of the Aboriginal Land Rights (Northern Territory) Act 1976 and the degree of access to Aboriginal land by the mining industry. At the conference, the Australian Ministers reiterated the Australian Government's commitment to maintaining the Aboriginal right to consent to exploration and mining.

76. A total of 482,868 square kilometres of land has been granted to the Aboriginal Land Trusts in the Northern Territory since the commencement of the Act on 26 January 1977. Since July 1991, eight areas totalling 17,329 square kilometres have been granted as a result of land claims under the Act, and 25 areas totalling 1,859 kilometres of former stock route and reserved lands have been granted to Aboriginal people who are ineligible to claim land under the Act because their traditional land is on pastoral properties. The latter grant results from a Memorandum of Agreement signed by the Prime Minister and the Chief Minister for the Northern Territory, which is intended to accelerate the provision of Aboriginal living areas in pastoral areas of the Northern Territory.

77. Further to developments outlined in paragraph 112 of Australia's eighth report, in February 1992 the Western Australian Government announced that it would introduce amendments to the Aboriginal Heritage Act during 1992. These amendments were designed to address the protection of Aboriginal sites and objects and the related issue of the preservation of Aboriginal culture and heritage in Western Australia. The amendments also sought to address the involvement of Aboriginal people in such a process, and development approval processes.

78. Subsequently, the Western Australian Government announced that the introduction of the amendments to Parliament would be deferred until 1993. This followed expressions of concern from Aboriginal groups and sections of the mining industry concerning the proposals, and a request for more time to consider them.

Migrants

79. During the reporting period, the Australian Government agreed to the development of a National Integrated Settlement Strategy (NISS). The significance of the decision lies in its status as an agreed national policy on settlement which binds all Commonwealth departments and seeks to involve State agencies in a national task. The Strategy aims to ensure that the range of mainstream services currently available to the wider community are accessible to the migrant population and are culturally appropriate.

80. In particular, NISS will provide a more precisely defined and better coordinated means of:

(a) Addressing the settlement needs of recent arrivals;

(b) Responding to the problems still faced by people of non-English-speaking backgrounds who have been resident in Australia for an extended period, especially those affected by industry restructuring;

(c) Overcome problems which can create dependency on special services;

(d) Meeting the needs of particular groups, including those in isolated areas and isolated from community networks; and

(e) Ensuring that migrants already here, and future arrivals, do not "fall through the gaps" or accumulate unmet needs, as in the past.

81. The Migrant Worker's Participation Scheme provides funding to unions for initiatives to promote improved workplace and union participation by migrant workers, especially those from non-English-speaking backgrounds. The scheme's objectives include:

(a) Promoting policy and programme developments within the union movement which will bring about more effective workplace participation of migrants;

(b) Encouraging the availability of English language training and other appropriate training;

(c) Ensuring that effective information and consultative processes are developed within unions to take account of the needs and contributions of migrant workers (e.g. committees, workplace meetings, training programmes, etc.);

(d) Ensuring that the needs, skills, experience and overseas qualifications of migrant workers are recognized in award and industry restructuring processes and in workplace reform generally;

(e) Ensuring implementation of equal employment opportunity and affirmative action programmes to increase the level of migrant worker participation in trade union and peak council management/representative structures; and

(f) Enhancing the efficiency of occupational health and safety programmes to migrant workers.

82. Established in September 1991, the Workplace English Language and Literacy Program funds the provision of workplace English language and literacy training for people of non-English-speaking and English-speaking backgrounds. English language and literacy training is regarded by the Government as a prerequisite for full and equitable participation in the workplace.

83. The Australian Government, under the Immigration (Education) Act 1971, funds and coordinates an English language teaching programme with support services to recently arrived non-English-speaking migrants to help them function effectively in Australian society and to acquire the language skills they need to achieve their goals. In 1991/92 there were 66,500 enrolments in the programme. The budget allocation was $104 million with a further $6 million to be raised from student fees.

84. The Australian Government has requested HREOC to report annually on the "State of the Nation" of people of non-English-speaking background (NESB). The Race Discrimination Commissioner is responsible for the report, which is to be presented to the Australian Parliament in 1993. Amongst other things, it is planned that the report will be the means of conveying the perceptions and concerns of ethnic communities about human rights issues directly to the policy-makers.

The media

85. The Special Broadcasting Service Act 1991 established the SBS as an independent corporation with its own charter. The principal function of the SBS is to provide multilingual and multicultural radio and television services that inform, educate and entertain all Australians and, in doing so, reflect Australia's multicultural society. SBS provides broadcast for 126 hours per week in 63 languages in the Sydney region and 126 hours per week in 59 languages for the Melbourne region.

86. Ethnic programmes are also broadcast by public radio stations, with five full-time ethnic broadcasting stations in major centres and 57 other stations providing 810 hours per week of ethnic radio services.

87. The Australian Government has endorsed the findings of the RCIADIC that the media have an important role to play in overcoming widespread community ignorance, misinformation and prejudice about Aboriginal people. RCIADIC recommendations on the media involved:

(a) Strategies to increase Aboriginal and Torres Strait Islander employment within media organizations;

(b) Review and development of standards of conduct and codes relating to the presentation of Aboriginal issues;

(c) Increasing Aboriginal studies components during the training of journalists;

(d) Promotion of formal and informal exchanges between Aboriginal and non-Aboriginal media to develop better understanding; and

(e) Establishment of awards for excellence in Aboriginal affairs reporting.

88. In August 1991 a discussion paper titled "Aboriginal and Torres Strait Islander Broadcasting" was circulated to commence the process whereby Aboriginal and Torres Strait Islander peoples will see the Government review its policy on Aboriginal and Torres Strait Islander broadcasting. That review is expected to be completed in the second half of 1992, and from it will emanate proposals to improve the capacity of Aboriginal and Torres Strait Islander broadcasting organizations.

89. On 31 March 1992, the Australian Government announced it had transferred approximately $2 million from the Federal Department of Employment, Education and Training (DEET) to Aboriginal and Torres Strait Islander media organizations for training in Aboriginal and Torres Strait Islander broadcasting. This was the amount of Training for Aboriginals (TAP) money which DEET was spending on Aboriginal and Torres Strait Islander broadcast training at that time.

90. A major national conference will be held in early 1993 to initiate action leading to a role for the Australian media in improving relations between Aboriginal and Torres Strait Islander Australians and the wider community.

91. The Government funds media education and training programmes to enable participants in these new services to work towards their desired goals.

Article 3

92. The Australian Government considers that the policy of apartheid constitutes a basic affront to the dignity of man and is a flagrant violation of fundamental human rights. It has therefore accorded a high priority to the abolition of apartheid. As a consequence, it has been instrumental in applying international pressure, through the Commonwealth, on the South African Government. Australia adheres to Commonwealth policy adopted at the Commonwealth Heads of Government Meeting (CHOGM) in October 1991, which includes a phased lifting of sanctions against South Africa. Consistent with this policy, Australia lifted people-to-people sanctions following the 1991 CHOGM in recognition of reforms made by the South African Government. The Australian Government maintains, however, trade and investment sanctions, financial sanctions and the arms embargo.

93. The South African Government is well aware of the Australian Government's early and continuing commitment to the eradication of apartheid. While the current Government's policy, in common with that of its predecessors, is to maintain correct diplomatic relations with South Africa, the maintenance of such relations does not imply acceptance of another country's social or political system.

94. The Australian Embassy in Pretoria has played an important role in monitoring human rights in South Africa. Many cases have been taken up directly with the South African authorities. In a number of instances these interventions have proved very successful, but, even where they are not successful, the South African Government is reminded of the international community's scrutiny and informed interest. Even more important than formal diplomatic representations has been the Embassy's ongoing task of maintaining close working relations with local human rights groups, monitoring meetings and protests, witnessing security force action in the townships and generally providing moral and practical support for those involved in the struggle for democracy.

95. Political contact with the South African Government is even more important now that President De Klerk has committed his Government to ending apartheid. It will be necessary for countries like Australia to remain engaged in order to encourage all sides towards a peaceful and democratic settlement. Australia participated as an observer in the Convention for a Democratic South Africa (CODESA) in December 1991. Australia has also pledged involvement, should all the parties agree, in an international observer group in South Africa to help curb the violence and encourage a return to negotiations.

96. Many countries, particularly in Africa, Eastern Europe and Asia, are now for the first time establishing diplomatic relations with South Africa. In many of these cases the new diplomatic contact has high level political, trading and tourist promotion links. It is important to note that, in Australia's case, diplomatic contact has been part of a carefully balanced package of measures designed to hasten the end of apartheid.

97. Australia does not support moves to expel or suspend South Africa from membership of international bodies. To do so would remove South Africa from exposure to critical views. In addition, Australia believes in the principle of universality of membership of international organizations. The Australian Government is not planning to become a party to the International Convention on the Suppression and Punishment of the Crime of Apartheid. Although Australia is sympathetic with the aims and objectives of the Convention, its provisions, inter alia, remain inconsistent with the Government's policy regarding diplomatic contacts.

98. The Australian Government supports the efforts of the Front Line States to promote and strengthen regional and national economic development to reduce their dependence on South Africa, by providing bilateral and multilateral assistance. It is committed to taking an active role in the Southern African Development Community (SADC) in areas such as dry land agriculture, forestry, education and food security. In the current 1990/91-1992/93 triennium Australia has a commitment of $110 million in this region.

99. In October 1983 the Government announced the introduction of a programme to enable prominent opponents of apartheid to visit Australia. The purpose of the programme is to provide an opportunity to enhance Australian understanding of South African issues, notably apartheid, and to provide representatives of the disenfranchised black majority and other opponents of apartheid with a chance to put their point of view to the Government and Australian community. Principal among these have been Archbishop Tutu, Dr. Alan Boesak, Breyton Bretenbach, Oliver Tambo, Nelson Mandela and Walter and Albertina Sisulu.

100. In October 1983 the Government announced that the South African liberation movements would be permitted to establish an information office in Australia. Since then, Australia's relations with these organizations, particularly the ANC, have grown considerably. During their period of exile, contacts were maintained through Australia's missions in the Front Line States. Since the lifting of the bans, the Australian Embassy in Pretoria has maintained regular contact with the liberation movements in Johannesburg as the complex process of negotiation has begun to unfold.

101. Australia's support for these organizations in this new era of politics has been practical as well as moral. Australia was the first member of the international community to pledge its financial support for the return of refugees, the re-establishment of political organizations, and assistance to the victims of apartheid. In the current 1990/91-1992/93 triennium Australia will provide $22.7 million under the Special Assistance Programme for South Africans (SAPSA) to assist in the reintegration and development of South African victims of apartheid, particularly for humanitarian and educational activities and the return and resettlement of ANC exiles and families.

102. Under Commonwealth policy agreed to in October 1991 at Harare by heads of Government, sporting sanctions have been delinked from the four-phased lifting of sanctions. Sporting sanctions are lifted on a sport-by-sport basis as individual sporting codes meet three requirements:

(a) Formal endorsement of the achievement of unity by the appropriate representative non-racial sporting organizations in South Africa;

(b) Readmission to the relevant international governing body; and

(c) Agreement of the appropriate non-racial sporting organization within South Africa to resume international competition.

103. The boycott against official cultural exchanges with South Africa was removed under the lifting of people-to-people sanctions in October 1991. The Australian Government encourages cultural exchange between Australia and South Africa.

104. The value of Australian exports to South Africa has fallen over the period since imposition of sanctions. In 1990/91 the value of exports to South Africa was $171 million while the value of imports from South Africa was $99 million.

105. Australia looks forward to the early successful conclusion of negotiations between the parties in South Africa. When that occurs, sanctions will be lifted immediately in accordance with the Harare framework. In the meantime, the Australian Government is adopting a positive attitude towards the Australian business community positioning itself to take advantage of trade and investment opportunities once these sanctions are lifted. The Australian Government has no objection to individual business representatives or business missions visiting South Africa on an exploratory basis, to assess prospects for further involvement there.

106. Consistent with the Agreed Commonwealth measures all new investment in South Africa by the Australian Government and public authorities has been suspended; all Australian banks and other financial institutions have been asked to suspend making new loans, either directly or indirectly, to borrowers in South Africa; and direct investment in Australia by the South African Government or its agencies is prohibited. There is a Code of Conduct for Australian companies with existing investments in South Africa. While there is a voluntary ban on Australian companies entering into new investments in South Africa, no breach of this ban has been recorded to date.

107. Direct airlinks were resumed in January 1992 under the lifting of people-to-people sanctions against South Africa. QANTAS and South African Airways now operate direct flights between Australia and South Africa. A new Air Services Agreement is currently being negotiated between Australia and South Africa.

108. The Australian Government has taken steps to ensure the implementation of the three principal United Nations Security Council resolutions relating to the embargo on the sale of arms to South Africa:

(a) Resolution 418 (1977): Mandatory arms embargo on the export of arms;

(b) Resolution 558 (1984): Voluntary embargo on the import of arms;

(c) Resolution 591 (1986): Voluntary strengthening of the arms embargo to include spare parts and military-related equipment.

These measures were extended to Namibia between May 1987 and June 1990.

Article 4

109. The Federal Attorney-General is examining the question of the introduction of criminal and civil provisions in relation to incitement to racial hatred and racial vilification. This includes a review of Australia's position in relation to article 4 (a) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

110. Australia's instrument of ratification of the ICERD contains the following declaration reserving Australia's position in relation to article 4 (a):

> "THE GOVERNMENT OF AUSTRALIA furthermore DECLARES that Australia is not at present in a position specifically to treat as offences all the matters covered by article 4 (a) of the Convention. Acts of the kind there mentioned are punishable only to the extent provided by the existing criminal law dealing with such matters as the maintenance of public order, public mischief, assault, riot, criminal libel, conspiracy and attempts. It is the intention of the Australian Government, at the first suitable moment, to seek from Parliament legislation specifically implementing the terms of article 4 (a)".

111. Three recent major inquiries, the National Inquiry into Racist Violence, the Australian Law Reform Commission's reference into Multiculturalism and the Law, and the RCIADIC, have made recommendations concerning the need to legislate in relation to racist violence and racial vilification. In response, the Australian Government has proposed to amend the RDA to make racial vilification unlawful and to allow it to be the subject of a complaint mechanism to HREOC. The Government also proposes to amend the Crimes Act 1914 to create a criminal offence of inciting racial hatred.

112. The Government will remove Australia's reservation to article 4 (a) of the Convention should passage of the proposed legislation proceed. A Bill amending the RDA and the Crimes Act was tabled in Parliament and has been the subject of public consultation and discussion. The bill, entitled the Racial Discrimination Amendment Bill 1992, lapsed when the House of Representatives was dissolved for elections (March 1993). The bill will be reintroduced during the current term of Parliament.

113. The Australian Government considers that the proposed amendments to the RDA and the Crimes Act 1914 would also adequately address Australia's obligations under article 4 (b). That article requires States parties to declare illegal and prohibit organizations promoting and inciting racial discrimination and to treat participation in such organizations as a criminal offence. The main function of such an organization is the public promotion of racism. If that activity is made criminal, it is considered unnecessary to

ban racist organizations. If necessary, an interpretive declaration to that effect will be made by Australia when the reservation to article 4 (a) is removed.

114. The Australian Government has lodged the appropriate declaration under article 14 of the ICERD. Consideration of such a declaration followed on from Australia's accession in September 1991 to the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). The Australian Government lodged a declaration with the United Nations on 28 January 1993, accepting the optional complaint procedure under article 14 of the ICCPR. The Government has also decided to consider modifying its reservation to article 20 of the ICCPR.

National Inquiry into Racist Violence

115. The Race Discrimination Commissioner, as authorized by the Human Rights and Equal Opportunities Commission, conducted a National Inquiry into Racist Violence which reported in April 1991. The Inquiry made a total of 67 recommendations including major law reforms to address the issues of racist violence, harassment and intimidation, incitement to racist violence and incitement to racial hatred. The major findings were that:

(a) Racist violence against Aboriginal and Torres Strait Islanders was endemic, nation-wide and very severe;

(b) There have been serious incidents of violence, harassment and intimidation against people of non-English-speaking background, their property and their places of worship. Although this was a matter of concern to the Inquiry, the extent of racist violence on the basis of ethnic identity was not as severe as that experienced by Aboriginal people; and

(c) Anti-racist activists have been subjected to violence because of their advocacy of basic human rights. The evidence indicates that this is largely perpetrated by organized extremist groups.

116. As one of its broad findings, the report found that while racist violence is not at the level at which it exists in many other countries, it is still a cause for concern and could increase if not addressed now.

117. Evidence to the Inquiry overwhelmingly demonstrated that racist attitudes and practices (both conscious and unconscious) against Aboriginal people pervade Australian institutions and that, in particular Aboriginal-police relations have reached a critical point due to the widespread allegations of police involvement in acts of racist violence, intimidation and harassment.

118. For people of non-English-speaking background, harassment and intimidation are the most common experience of racist violence. They result in a threatening environment in which many are forced to live. This is borne out by a number of studies undertaken for the Inquiry. The results of questionnaires and incident reports coordinated by Migrant Resource Centres and other ethnic organizations provide a representative sample. Of the 950 incidents reported by a range of ethnic minorities, 66 per cent reported incidents of verbal abuse and 12 per cent reported physical attacks.

119. The report's recommendations related to areas such as policing practices, justice administration, education, housing, the workplace, community relations and, most importantly, legislation. The report considered the inadequacy of current laws to deal with the problem and need for national legislation. In particular, the Inquiry found that existing laws were inadequate in dealing with racist violence and certain other forms of racism and discrimination considered by the Inquiry, and recommended a package of legislative reforms to create a range of new criminal offences and civil remedies.

120. The Inquiry recommended that the Commonwealth Crimes Act be amended to create a new criminal offence of racist violence and intimidation. In addition, there should be a clearly identified offence of incitement to racist violence and racial hatred which is likely to lead to violence.

121. Commonwealth offences were recommended because the Australian Government is responsible for protecting fundamental human rights such as the right to security of person and property. The establishment of a Commonwealth offence is significant because it will require federal authorities to investigate and, if necessary, prosecute State and Territory police if they are involved in acts of racist violence. It will also enable Australian Government action if, for any reason, incidents of racist violence are not properly investigated and prosecuted.

122. It was also recommended that new civil remedies be created to address less serious forms of intimidation and harassment. The Inquiry proposed that the RDA be amended to prohibit racist harassment and outlaw incitement of racial hostility. The Inquiry carefully balanced the right to free speech with the fundamental rights of people from different ethnic or racial backgrounds to live their lives free of harassment or violence.

123. In addition to the substantive reforms, the Inquiry recommended a number of procedural changes to the law:

(a) Under both State and Commonwealth Crimes Acts, racist motivation should be taken into account in sentencing persons convicted of crimes. Higher penalties may be imposed accordingly;

(b) Discrimination on the basis of religion should be prohibited under the RDA where religious belief is used as surrogate for race or ethnicity; and

(c) The proposed provisions covering incitement of racial hostility and harassment should also protect members and supporters of anti-racist organizations.

124. The Federal Government responded to the Inquiry's recommendations in December 1991 and supported in principle 65 of its 67 recommendations. The two recommendations not accepted were Recommendation 15 and Recommendation 37.

125. Recommendation 15 states that objection to a potential juror on the ground of ethnic or racial background be prohibited. This recommendation was not supported because it is not at present necessary to state the reason for objecting to a potential juror. Accordingly, enforcement of this recommendation would be impractical. The constitution of juries is a matter

for the judge presiding at trial. There is a precedent for a judge discharging a jury where all Aboriginal and Torres Strait Islander peoples in the jury panel had been objected to by the prosecutor. The matter is to be discussed further by the Attorney-General and his State and Territory counterparts through the Standing Committee of Attorneys-General which meets regularly.

126. Recommendation 37 states that all industrial awards include provisions guaranteeing freedom from racial discrimination and racial harassment as a condition of employment and that such provisions be enforced. This recommendation was not supported at this stage. The Departments of Labour Advisory Committee contend that the object of recommendation 37 could be achieved through amendment to anti-discrimination legislation, rather than by inserting provisions in awards. However, the matter is under review pending further consideration by the National Labour Consultative Council.

127. Using the findings in the report as a benchmark of racism in Australia in the early 1990s, the Government has resolved to monitor the situation by requesting two specific "State of the Nation" reports on an annual basis. An "Ethnic Communities' State of the Nation" report coupled with one focused on Aboriginal and Torres Strait Islander peoples, will allow public scrutiny of racism in Australia. Hopefully, the reports will chart the nation's progress towards a truly pluralist and equitable society. They will provide an annual accounting of positive gains made by Aboriginal and Torres Strait Islanders and NESB communities against personal and institutionalized racism and against barriers to racial harmony.

128. The Government also indicated that a number of the recommendations would be addressed in the context of its response to the RCIADIC, noting that:

> "... there is significant overlap between some of the recommendations of NIRV (National Inquiry into Racist Violence) and those of the Royal Commission into Aboriginal Deaths in Custody. The overlap is primarily in the areas of need for legislation to deal with racial vilification, interpreter services in courts, media issues and police-community relations."

129. The issues addressed by the Inquiry in relation to Aboriginal people were very similar to those addressed by the RCIADIC. The Commission made three recommendations that referred specifically to the role of the HREOC in addressing the human rights needs of Aboriginal and Torres Strait Islander peoples. These were that:

(a) The HREOC and State Equal Opportunity Commissions (EOCs) should be encouraged to further pursue their programmes designed to inform the Aboriginal community regarding anti-discrimination legislation and ways and means of taking advantage of it;

(b) HREOC and EOCs should be encouraged to consult with appropriate Aboriginal organizations and Aboriginal Legal Services with a view to developing strategies to encourage and enable Aboriginal people to utilize anti-discrimination mechanisms more effectively, particularly in the area of indirect discrimination and representative actions; and

(c) Governments which had not already done so should legislate to proscribe racial vilification and to provide a conciliation mechanism for dealing with complaints of racial vilification; the legislation should empower organizations which can demonstrate a special interest in opposing racial vilification to complain on behalf of any individual or group represented by the organization.

State developments

130. Acts of racist violence are subject to existing State and Territory laws. In Western Australia there was a successful prosecution in 1990 of the leader of the Australian Nationalist Movement, Peter Joseph van Tongeren, who was convicted of having conspired to drive Asians out of Western Australia through acts of racist violence and was convicted and sentenced to 18 years' imprisonment.

131. In 1989 the New South Wales Government passed an amendment to the Anti-Discrimination Act 1977 to create racial vilification provisions. In introducing the amendments, the Government undertook to initiate a review of the operation of these after an appropriate period. The review was instituted in January 1992 and is due to report later in 1992.

132. The Australian Capital Territory Discrimination Act (sections 65 to 67), which came into force on 20 January 1992, contains similar provisions to the New South Wales Anti-Discrimination Act making racial vilification unlawful and subject to civil remedies, whilst making serious racial vilification a criminal offence. It makes it unlawful, by a public act, to incite hatred towards, serious contempt for, or severe ridicule of a person or group of persons on the ground of the race of the person or members of the group.

133. Under the Queensland Anti-Discrimination Act (section 126), which came into force on 30 June 1992, a person must not advocate racial or religious hatred or hostility to incite unlawful discrimination or other contravention of the Act. It is also unlawful (section 122) to request or encourage others to contravene the Act.

134. The Western Australian Government passed an amendment to its Criminal Code in late 1990 to make it a criminal offence to possess and/or publish material to incite racial hated or harass a racial group.

135. A bill to create an anti-discrimination legislation in Tasmania, which included racial vilification provisions similar to the New South Wales Anti-Discrimination Act, lapsed on the dissolution of Parliament in January 1992.

136. A bill to create new State legislation on racial vilification in Victoria was introduced into the Victorian Parliament on 26 May 1992. The bill proposed to make unlawful certain acts or statements that vilify or threaten people on the ground of their race or religion. The Racial and Religious Vilification Bill was introduced into the Victorian Parliament, but lapsed on the announcement of an election for the State Government to be held on 3 October 1992.

Article 5

Migrants

137. As part of the National Agenda for a Multicultural Australia the Attorney-General referred to the Law Reform Commission the question of whether Australian family law, criminal law and contract law are appropriate to a multicultural society, and to draft amending legislation if necessary. The Law Reform Commission's report, Multiculturalism and the Law, was released in March 1992. One source of principles which guided the Commission in dealing with different cultural values and their reflection in the law were international human rights instruments to which Australia is a party. The Commission's terms of reference referred specifically to ICERD.

138. Chapter 7, entitled "Maintaining harmony and peaceful coexistence", recommends that the Commonwealth should make racist violence an offence under federal law. Other recommendations in the area of criminal law include:

(a) That amendments be made to the Crimes Act to ensure that an offender's cultural background is taken into account when a court considers whether it is appropriate to proceed to a conviction or when it is passing sentence;

(b) That, where necessary, a person accused of a Commonwealth offence should be provided with an interpreter for the entire trial, with the cost to be borne by the Australian Government;

(c) That the prosecution policy of the Australian Government be amended to include expressly the alleged offender's cultural background and the fact that the alleged offender did not know and could not reasonably have been expected to know that what he or she did was an offence as matters to be considered in deciding whether to prosecute; and

(d) That the Crimes Act be amended to include specifically the fact that the accused did not know that what he or she did was an offence, and could not reasonably be expected to have known, as a matter to be taken into account in deciding what sentence to impose.

139. The Commission has provided draft legislation necessary to give effect to its recommendations, and the appropriate explanatory memorandum, having regard to any constitutional limitations on federal power. The Government is currently considering the report's recommendations.

140. The Administrative Review Council Report Number 34 to the Attorney-General on Access to Administrative Review by Members of Australia's Ethnic Communities is the result of a research project conducted as part of the National Agenda for a Multicultural Australia. The aims of the project were:

(a) To identify deficiencies from a multicultural point of view in the existing system of administrative decision-making and review;

(b) To work with government agencies to develop and try out new ways of administrative decision-making, having appropriate regard to the cultural diversity of the Australian population; and

(c) To cooperate with review agencies to assess the suitability of existing procedures for handling grievances.

141. The report was tabled in the House of Representatives of 12 September 1991 and in the Senate on 8 October 1991. Further consideration of the report and its recommendations will follow completion of the Government's response to the report of the Senate Standing Committee on Finance and Public Administration with respect of the Ombudsman's Office in October 1992.

142. In April 1991 the Attorney-General's Department completed a review of the arrangements for access to, and provision of, interpreters in Federal and State courts and major Federal Tribunals. The review was undertaken as part of the National Agenda for a Multicultural Australia which examined existing and proposed arrangements for the provision of interpreters in the Australian legal system.

143. The report's recommendations were wide ranging and sought to adopt uniform national legislation and rules for the use of interpreters in the following areas:

(a) Use of interpreters in courts, particularly the enactment of Federal legislation to ensure an entitlement in a party or witness to use an interpreter in Federal courts and tribunals subject to a judicial discretion;

(b) Use of interpreters in the police investigation process and that this be enshrined in Commonwealth legislation, and obligatory use of an interpreter in all cases where the accused does not have adequate English skills;

(c) Development of interpreter skills, especially the establishment of a national training, registration and accreditation system of interpreters and translators and, later, the enactment of legislation to compel the use of registered interpreters in courts, tribunals and the police investigation process;

(d) Payment of interpreters, and that in the civil jurisdiction this be funded from a levy on filing fees; and

(e) Collection of statistics in relation to interpreter usage be improved.

144. Progress on implementing the recommendations is continuing. The report has been referred to all State and Territory Attorneys-General and Federal Courts and the Administrative Appeals Tribunal (AAT) for their consideration. All Federal Courts and the AAT have been provided with funds to offset the costs of providing interpreter services consistent with the Government's Access and Equity Policy.

145. The Crimes Act 1914 has already been amended to give a person the legislative right to an interpreter in the pre-curial investigative process. Section 23N of that Act now provides:

> "Where an investigating official believes on reasonable grounds that a person under arrest for a commonwealth offence is unable, because of inadequate knowledge of the English language or a physical disability, to communicate orally with reasonable fluency in that language, the official must, before starting to question the person, arrange for the presence of an interpreter and defer the questioning or investigation until the interpreter is present."

Aboriginal and Torres Strait Islander Australians

146. The Australian Government recognizes that in the area of access to legal support and advice, Aboriginal and Torres Strait Islander peoples are particularly disadvantaged. This disadvantage is reflected in statistics which reveal that Aboriginal and Torres Strait Islander peoples suffer disproportionately from the operation of the criminal justice system.

147. In March 1992 the Federal Government announced that a total of $50.4 million in additional funding will be allocated to the Aboriginal Legal Services (ALS) throughout Australia over the next five years. The ALS plays a critical role in addressing all aspects of the relationship between Aboriginal people and the Australian legal system.

148. The funding package represents the Federal Government's response to 27 recommendations of the RCIADIC directed towards enhancing the effectiveness and efficiency of the ALS in performing its traditional functions, and to expand its activities to address specific RCIADIC recommendations. The latter aspect includes the development of protocols with police for improving relations with Aboriginal people, and adequate legal representation and advice to Aboriginal juveniles.

149. The Crime (Serious and Repeat Offenders) Sentencing Act 1992, dealing with the sentencing of serious and repeat offenders, came into force on 9 March 1992. It attempts to deal with the serious problem of juvenile crime by providing, amongst other things, for 1½ years' mandatory imprisonment and indeterminate detention for certain repeat offenders regardless of the Court's views as to the appropriateness of such detentions.

150. The legislation followed several incidents involving car theft and high speed police pursuits of stolen vehicles resulting in fatal accidents. While of general application, it was clear that the legislation would have a disproportionate impact on Aboriginal juveniles and was likely to increase the over-representation of Aboriginal people, and in particular juveniles, in custody. This is because Aboriginal youth represent 67 per cent of Western Australian Children in custody and are 14 times more likely than other children to be in custody.

151. The Attorney-General and the Human Rights Commissioner have written to the Western Australian Government indicating that the proposed legislation was inconsistent with the ICCPR and the Convention on the Rights of the Child, and

was also contrary to recommendations of the RCIADIC including: the need to devise strategies to reduce the rate of Aboriginal juveniles involvement in the criminal justice system (Recommendation 62); that imprisonment of Aboriginal people should be used only as a sanction of last resort (Recommendation 92); and that where motor vehicle accidents are a significant cause of Aboriginal imprisonment, programmes be designed to reduce the rate of offending (Recommendation 95).

152. The legislation was referred to the Standing Committee on Legislation of the Western Australian Legislative Council for consideration. The Committee's first report was tabled on 14 May 1992 in the Western Australian Parliament. The Committee considered that there were serious concerns that the legislation breached the letter and spirit of the ICCPR, the Convention on the Rights of the Child and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) 1986. The Committee also noted that the legislation runs counter to the Western Australian Government's commitment to endorsing the recommendations of the RCIADIC.

153. Aspects of the legislation of particular concern the Committee, which concluded that the Western Australian Government should reconsider the impact of the legislation, included:

(a) The lack of any explicit guidance for Supreme Court Judges on the review of periods of mandatory detention for juveniles;

(b) The provision of a mandatory sentence of imprisonment or detention of 18 months for certain offences by juveniles; and

(c) The ambiguity as to whether it is intended to allow young offenders to be detained or imprisoned in adult prisons.

154. The Committee's second report was tabled in mid-1992. It addressed administrative and legal aspects of the legislation with alternatives for dealing with the underlying issues that lead to juvenile crime. The second report also calls upon the Western Australian Government to reconsider the impact of the legislation.

155. Since this legislation was first conceived the Australian Government has continued to express concern about the implications of the legislation for Australia's obligations under international human rights instruments, and in view of the recommendations of the RCIADIC.

156. The legislation remains in force.

157. During consideration of Australia's eighth periodic report information was requested on statistics on the release of Aboriginal and Torres Strait Islander peoples on bail. Detailed statistics on this matter are not available. The Australian Institute of Criminology, however, conducted a survey of persons held in custody in police cells throughout Australia and the

reasons for their release during the month of August 1988. The information was provided by each State and Territory police force and deals only with people released on bail from police cells. The statistics exclude those in custody for drunkenness.

Reason for release	Aboriginal number	%	Non-Aboriginal number	%	Total Number	%
Bail	1 213	52	5 164	54	6 377	53
To court (a)	886	38	3 568	38	4 454	38
Sent. served	123	5	211	2	334	3
Other	117	5	511	6	668	6
Total	2 339	100	9 494	100	11 833	100

(a) To court, prison, juvenile shelter or other police custody.

158. As referred to in previous CERD reports, the Australian Government acknowledges that because of past and current discrimination against and dispossession and dispersal of Aboriginal and Torres Strait Islander Australians, special programmes of assistance are needed to enable Aboriginal and Torres Strait Islander peoples access to full economic, social and cultural rights. To this end the Australian and State Governments finance a multitude of programmes every year. In addition, the Governments commission investigations and inquiries into specific areas of need.

159. The Australian Government recognizes the interdependence between work opportunities and standards of living, and that Aboriginal and Torres Strait Islander peoples are a particularly disadvantaged group in the areas of employment and training. The Australian Government is committed to achieving equity of employment for Aboriginal and Torres Strait Islander peoples and the promotion of economic independence by increasing permanent employment opportunities for Aboriginal and Torres Strait Islander peoples. Through its continued support of the National Aboriginal Employment Development Policy (AEDP), the Australian Government has initiated a range of programmes to meet these objectives.

160. The AEDP aims to achieve indigenous employment and income equity - in line with the wider Australian community - by the year 2000. The AEDP consists of a complex and diverse range of policies, programmes, strategies and coordination mechanisms whereby ATSIC, in consultation with other Commonwealth agencies, plays a leading role in the implementation of the AEDP, both in coordination and the administration of several economic development

strategies. Some of these strategies include the Community Development Employment Projects (CDEP), the Economic Development Conferences (EDC), the AEDP Task Force, and other initiatives involving promotional and information campaigns to raise the awareness of AEDP or research into economic development issues.

161. Some of the major outcomes in 1991/92 for this policy included:

(a) Expansion of the Community Development Employment Projects scheme to encompass not only remote communities but also the urban areas;

(b) Further enhancements to facilitating economic empowerment through a range of new economic programmes designed to address the recommendations of the RCIADIC;

(c) Support for a number of Economic Development Conferences in each State and the Northern Territory;

(d) Ongoing support for a Centre for Aboriginal Economic Policy Research at the Australian National University;

(e) Ongoing support for contract employment programmes administered by the Australian National Parks and Wildlife Service and Bureau of Rural Resources;

(f) Commencing a process of reform of the Business Funding Scheme;

(g) Reviewing and transferring the community-based elements of the Training for Aboriginals Programme from DEET to ATSIC; and

(h) Establishing an Aboriginal Employer Organization and presenting to the Government a proposal for award coverage for Aboriginal organizations.

A full measure of achievements will be identified when a full review of the policy and the programmes is completed during the 1993/94 financial year.

162. Recent initiatives to promote Aboriginal and Torres Strait Islander employment in the private employment sector have been announced in the context of the RCIADIC. In particular, in response to Recommendation 309, the Australian Government has established 16 Local Aboriginal Employment Promotion Committees (LAEPCs). The aims of these committees are:

(a) To develop and implement strategies to help Aboriginal and Torres Strait Islander people to gain employment;

(b) To raise the awareness of Aboriginal and Torres Strait Islander peoples to local employment opportunities;

(c) To lobby for change at the local level to achieve the above purposes; and

(d) To broaden local understanding of the needs and aspirations of Aboriginal and Torres Strait Islander peoples.

163. The Committees comprise a wide cross-section of both the Aboriginal and Torres Strait Islander community and the broader Australian community, and are an important catalyst for change of local community attitudes which may preclude Aboriginal and Torres Strait Islander peoples from participating in the local employment market. A necessary feature of their work will be overcoming of racial stereotypes and the establishment of effective networks for change within both communities. This should expand local employment opportunities and considerably progress the National Reconciliation Agenda.

164. Further initiatives have been undertaken to target increased participation by Aboriginal and Torres Strait Islander peoples in the arts, pastoral, mining and tourism industries. As an initiative to promote employment in the private sector, the Australian Government has entered into an agreement with the Australian Chamber of Industry and Commerce to establish positions of industry advisers on Aboriginal employment to be located around the country. The Australian trade union movement has also signalled its intention to give its active support to the promotion of Aboriginal employment and training.

165. In addressing the overall economic and social development of Aboriginal and Torres Strait Islander peoples, a crucial employment initiative providing substantial benefits on Aboriginal and Torres Strait Island peoples, especially those who reside in remote community areas, is the CDEP (see para. 25 (b) above).

166. The Industrial Relations Act 1988 requires the Australian Industrial Relations Commission (AIRC), in the performance of its functions, to take account of the principles embodied in the RDA and the Sex Discrimination Act 1984 relating to discrimination in relation to employment.

167. Wage rates determined by the federal and State industrial tribunals make no distinction as to race, colour, or national or ethnic origin. The award restructuring and minimum rates adjustment (MRA) processes, established by the AIRC, aim to ensure, among other things, that the work performed by all workers is objectively valued, and that wage rates are determined according to relative work value. Properly applied, the MRA process should allow for the work value of all award classifications to be reassessed in light of relative skill, responsibility and the conditions under which work is performed, and for any undervaluation of work reflecting historical discrimination to be addressed.

168. At its 1989 Congress the Australian Council for Trade Unions (ACTU), which is the peak council in Australia for over 160 affiliated unions, adopted a strategy on Aboriginal and Torres Strait Islander affairs which, inter alia, states:

> "A priority over the next twelve months in conjunction with Award Restructuring is to ensure that no Aboriginal worker, enterprise or organization is Award free."

Since that time, the ACTU has been cooperating with the Australian Government and ATSIC to develop orderly and phased arrangements for the introduction of award coverage. Awards will ensure employment and income equity with other Australians. The first example of the process was on 6 December 1991 when the AIRC handed down the Pitjantjatjara Council and Associated Organizations Award 1991. This award includes appropriate and equitable terms and conditions for the Pitjantjatjara workers. The process was furthered on 6 May 1992 when the AIRC handed down the Health Services Union of Australia (Aboriginal Health Services) Award 1992.

169. In April 1992 the Government launched "An Industrial Relations Information Package for Aboriginal and Torres Strait Islander Peoples". The purpose of the package is to provide support material to assist with the provision of basic information on industrial relations to members of Aboriginal and Torres Strait Islander organizations and their employees. Seminars and training have also been provided to improve Aboriginal and Torres Strait Islander peoples' understanding of industrial relations.

170. The National Housing Strategy (NHS) was established by the Commonwealth Government in June 1990 to develop a programme of housing policy reform. The key policy focus of the Strategy has been to ensure that all Australians have access to affordable and appropriate housing. The NHS released an Issues Paper which provided a range of policy responses related to discrimination. Among the grounds of discrimination the paper cites as most commonly encountered in the provision of housing are race and ethnicity. The Paper recommends a range of responses to address such discrimination. These include legislative changes, community education strategies, the development of industry codes of practice based on equal opportunity principles and reforms to policies and administrative practices which are either directly or inadvertently restrictive.

171. A National Housing and Community Infrastructure Needs Survey is being conducted by ATSIC in order to gather accurate information about the environmental living standards of Aboriginal and Torres Strait Islander peoples. The survey is expected to be completed in June 1993.

172. The Commonwealth Government and ATSIC are continuing to implement the National Aboriginal Health Strategy (NAHS). The NAHS involves the provision of $232 million over five years by the Commonwealth Government to augment

existing health programmes in order to address the health needs of Aboriginal and Torres Strait Islander peoples. In addition, negotiated agreements have been reached with State and Territory Governments for broadly matched contributions. The Commonwealth and State/Territory funds will continue to be used to improve housing and infrastructure as well as health service delivery.

173. The NHS has been extended into 1992/93 to allow completion of the final papers, including the Ethnic Health Paper.

174. The Australian Government has initiated a number of innovative approaches to addressing the disadvantage experienced by Aboriginal and Torres Strait Islander people in the area of education and training. The centrepiece of these initiatives is the National Aboriginal and Torres Strait Islander Education Policy (AEP) which involves both the Australian and State and Territory Governments to improve educational opportunities and outcomes for Aboriginal and Torres Strait Islander peoples.

175. The RCIADIC endorsed the AEP and pointed to areas where improvements could be made. All Governments have endorsed those recommendations. The Australian Government has advised State and Territory Governments and education providers that the implementation of these recommendations is a priority for the next triennium, commencing in 1993.

176. As part of the Commonwealth Government's response to the RCIADIC, the Government has announced two significant funding initiatives in the area of education and training aimed at addressing a fundamental finding that school-based systems had been unwilling to accommodate many of the values, attitudes, codes and institutions of Aboriginal and Torres Strait Islander society:

(a) $20 million have been allocated over the next five years to increase the number of Aboriginal and Torres Strait Islander Education Workers from 800 to 1,000. These workers assist in the overall reduction of truancy levels, help to overcome racism, encourage participation and improve education results; and

(b) $10 million have been allocated over four years from 1994 to create additional preschool places for Aboriginal and Torres Strait Islander children, with an extra 600 places becoming available in the first full year of the programmes's operation. This increase will have a long-term impact on the overall educational outcomes of Aboriginal and Torres Strait Islander students and will provide the opportunity for more Aboriginal and Torres Strait Islander parents, particularly mothers, to become involved in education issues that affect their children.

177. Other initiatives include the Aboriginal Education Assistance (Reconciliation and Schooling) Strategy which recognizes that education is fundamental to social change and that progressive policies are necessary to increase access and equity for Aboriginal and Torres Strait Islander

peoples. This is complemented by Aboriginal Parent Awareness and Student Support (ASSPA) Committees which are designed to increase the educational participation and attendance of Aboriginal and Torres Strait Islander youth who are of compulsory schooling age and help schools to better respond to the educational needs and aspirations of Aboriginal and Torres Strait Islander students. In 1991/92 there were 2,600 such Committees.

178. In September 1991, after an extensive review of Australia's language and literacy programmes and lengthy public consultation, the Australian Government released the Australian Language and Literacy Policy (ALLP). The Policy has four key goals. In summary form these are:

(a) All Australians should develop and maintain effective literacy in English to enable them to participate in Australian society;

(b) The learning of languages other than English must be substantially expanded and improved;

(c) Those Aboriginal and Torres Strait Islander languages which are still transmitted should be maintained and developed, and those that are not should be recorded where appropriate; and

(d) Language services provided by interpreters and translators, the print and electronic media and libraries should be expanded and improved.

179. The policy has led to increased provision for adult English as a Second Language (ESL) and English literacy programmes and increased emphasis on English language and literacy under the Aboriginal Education Policy; increased funding for the maintenance and development of Aboriginal languages and for the increased teaching of community languages; enhanced provision for research into ways to improve literacy and ESL teaching for children and adults; and a continued emphasis on Asian literacy and Asian languages to encourage awareness by Australians generally of the languages and cultures of their nearest neighbours.

180. In addressing the literacy and language needs of all Australians, the policy supports teaching practices and programmes which will reduce racial discrimination.

Article 6

181. Under Part III of the Racial Discrimination Act 1975 the Race Discrimination Commissioner may inquire into complaints alleging infringements of Part III of the Act and endeavour to effect a settlement between the parties. The Commissioner may direct persons to attend, at a specified time and place, a compulsory conference and produce documents. Failure to do so renders the offender liable to a fine. If this process does not result in a settlement acceptable to both parties, the matter is referred to HREOC, which holds an inquiry in the nature of a judicial hearing at which the parties are

entitled to be legally represented. At the conclusion of the hearing the Commission makes a determination. If the complaint is found to have been established, the Commission may also recommend the payment of damages. A recommendation by the Commission may be enforced, if necessary, by action in the Federal Court of Australia.

182. During 1 July 1990 to 30 June 1992, 688 complaints were lodged throughout Australia under the Racial Discrimination Act as follows:

July 1990 to 30 June 1991	352
July 1991 to 30 June 1992	336
Total	688

There were also complaints of racial discrimination lodged under the anti-discrimination legislation of four States: New South Wales, Victoria, South Australia and Western Australia, and the Australian Capital Territory.

183. Table 1 below breaks down the complaints lodged under the Commonwealth legislation into subcategories of racial or ethnic background, area of complaint and category of complainant. The statistics indicate a steady increase for the period 1990/91 of 18.5 per cent over the previous years' complaints (297 for 1989/90), but a slight decrease in 1991/92. This slight decrease is partly attributable to the decision of the Commission to end its cooperative arrangement with the NSW Anti-Discrimination Board on 30 June 1991. Complaints of racial discrimination under the Commonwealth legislation arising in NSW are now handled by the Commission's central office located in Sydney.

184. The legislation requires that complaints be resolved by way of conciliation, the aim of which is to settle disputes by bringing the parties together to reach a mutually satisfactory agreement. Approximately 50 per cent are conciliated, 43 per cent are discontinued (either by being withdrawn or loss of contact with the complainant), and the remaining 7 per cent are referred for public inquiry, at the request of the complainant or the Commissioner.

185. There are advantages in using conciliation to resolve complaints. It is more accessible than the traditional adversarial system adopted by Australian courts. Procedures are designed to enable a lay person to pursue a complaint, and the Commission has attempted to remove perceived barriers such as language by accepting written communication in languages other than English and by supplying interpreters, where necessary, at its own expense. Unless the complainant chooses to be represented by a lawyer, there is no cost throughout the conciliation process to the complainant, who can withdraw at any stage. It is also more cost-effective for Government than litigation through the courts where the average matter costs between $50,000 to $70,000, compared with an average cost of less than $2,000 for complaints which cannot be conciliated.

186. Under the Human Rights and Equal Opportunity Commission Act, the Commission is obliged to provide assistance to persons who wish to lodge written complaints under that Act and who are prevented by some incapacity/disadvantage from doing so.

187. Under the RDA, if a complaint cannot be conciliated, it may be referred for a public hearing, and a determination will be made. As in the conciliation stage, the hearing procedures are designed to enable the parties to represent themselves. Conciliation at this stage is also available, with the Act specifically providing that the Commission may adjourn the proceedings to enable conciliation to take place. However, determinations of the Commission are not binding. If the respondent does not comply with the determination, enforcement can be sought in the Federal Court of Australia, which effectively means a re-hearing of the whole matter. Should enforcement proceedings be instituted in the Federal Court, the complainant risks an order for costs being made against him/her. The Australian Government is considering an amendment to the Act to eliminate the necessity for a rehearing.

188. During the period January 1991 to 30 June 1992, 28 unconciliated complaints under the Racial Discrimination Act were referred for public inquiry of which 1 was settled before hearing, 5 were dismissed, 3 are awaiting a decision and 19 are still to be heard. Some significant decisions handed down during this period included the following:

(a) In the case of Patricia Grace Scott and Irene Grace Wood v. Venturato Investments ("The Herbert Hotel Case") the complainants were two Aboriginal women. They alleged that they were refused service of liquor by reason of their race in contravention of the RDA. The respondent admitted that there was refusal of service but contended that refusal was justified and in accordance with the obligations of a hotel-keeper imposed by the Queensland Liquor Act. The Commissioner who conducted the hearing was satisfied that the refusal the two complainants suffered was "arbitrary and was not justified under law", and that the complainants did nothing to contribute in any way to the action that was perpetrated upon them. The hearing Commissioner was also satisfied that the arbitrary refusal occurred on the ground of the complainants' race. The complaints were upheld and the hotel was ordered to pay the sum of $1,200 compensation to each of the complainants and to publish an apology in the local paper;

(b) In the case of Aboriginal Student Support and Parent Awareness Committee (Traeger Park Primary School) v. Northern Territory Minister for Education, the complainant alleged that the respondent's decision to close Traeger Park Primary School as a government school breached the RDA. Traeger Park Primary School was a school predominantly attended by Aboriginal children and had developed specialist programmes for its students. Although the complaint was ultimately dismissed, the Commissioner found that one of the bases for the decision to close the school was the student population's race. However, it was not established that the decision had the purpose or effect of nullifying or impairing the exercise, on an equal footing, of the students' right to education or training.

Table 1

Complaints lodged under the Racial Discrimination Act 1975

1 July 1990-30 June 1991
1 July 1991-30 June 1992

Total number = 668

	1990-1991	1991-1992
Complainant's race or ethnicity		
Aboriginal	121	109
Non-English speaking background	135	125
English-speaking background	79	53
An association	1	2
Not known/recorded	16	47
TOTAL	352	336
Area of Complaint		
Land/housing accommodation	26	23
Access to goods and services, places and facilities	132	115
Employment	158	176
Advertising/media	9	2
Incitement to unlawful acts	1	
Education	12	6
Other	14	14
TOTAL	352	336
Categories of Complaints		
Female	153	127
Male	182	177
Group/organization	8	21
Not known	9	11
TOTAL	352	336

Article 7

189. Paragraphs 248-251 of Australia's eighth report detailed the functions and corresponding activities of HREOC. Each of the Acts administered by the Commission incorporates an understanding of the fact that complaint-based systems alone are insufficient to counter discrimination and that supplementary measures to protect and promote human rights are necessary. Accordingly, the legislation gives the Commission a wide range of functions including community education and promotion, research and public inquiries.

190. From January 1991 to June 1992, the major projects undertaken by the HREOC under the RDA are aimed at achieving positive changes in public attitudes to Aboriginal people and people from non-English-speaking backgrounds, and in the way they are treated in Australian society. In this fashion, its projects seek to combat prejudices which lead to racial discrimination, and to promote understanding, tolerance and friendship among nations and racial and ethnic groups. The major projects divided under the headings education and training, culture and information are described in the following paragraphs.

Education and teaching

191. The Race Relations in the Workplace programme has focused on private sector employment and is based on the assumption that racial discrimination impairs the efficiency and effectiveness of an organization and individuals in it. Two pilot projects were conducted with companies in New South Wales and Queensland. The evaluation of the completed programme pointed to increases in productivity and profitability, decreased accident liability rates, improvements in personnel policies and practices, and increases in the diversity of employees at the management level.

192. A draft training package, Diversity Makes Good Business - Managing a Multicultural Workforce, has been developed and aims to train managers to better manage a culturally diverse workforce. The package is being trialed as part of the Workplace Project under the Community Relations Strategy (see below).

193. A video has been produced to accompany the above training package, and is funded by the New South Wales Education and Training Foundation. The video was produced by SBS Television and forms part of the SBS English at Work series. In addition, the NSW Education and Training Foundation funded the production of a video on racial discrimination to accompany the training package. The video was produced in conjunction with SBS Television and also went to air as part of their English at Work series. The video has been re-edited to form part of a training package and will also be distributed as a separate product with trainer notes enclosed.

194. The Race Discrimination Commissioner decided to undertake a research project into the system of accreditation and recognition of qualifications for medical practitioners following allegations that the system was discriminatory

for overseas trained practitioners. The research report, The Experience of Overseas Trained Medical Practitioners in Australia: An Analysis in the Light of the RDA was released in May 1991. The report concluded that there was compelling evidence that the system was discriminatory in terms of the RDA.

195. The report made 12 recommendations relating to the state of the medical registration system. Most importantly, it asked the Medical Boards to give serious consideration to avenues of evaluating the skills and competence of overseas trained doctors, including the introduction of a system of assessment while undertaking a limited form of practice under appropriate supervision. The report has been the subject of vigorous debate and the Race Discrimination Commissioner has undertaken follow-up consultations with major medical practitioner bodies and registration boards in regard to changes to the system.

196. In November 1991 HREOC and the NSW Ethnic Affairs Commission commenced a joint research project aimed at providing better information on and protection for the rights of workers of non-English-speaking background who may be faced with retrenchment. Many such workers are concentrated in manufacturing and construction industries which have contracted significantly as a result of the economic recession. The project aims to identify the workers' needs in accessing retraining opportunities, and to assist Australian and State Government agencies and private employers to meet those needs.

Culture

197. The aboriginal water project is aimed at determining how cost-effective, efficient and appropriate technology can be used by Aboriginal communities in remote areas of Australia to gain access to adequate, reliable, safe water supplies. Field studies have been conducted of nine Aboriginal and Torres Strait Islander communities in a variety of geographical locations ranging from the central desert to coastal towns and islands in the Torres Strait. Further consultations on the case studies are ongoing and it is expected that the final report will be available at the end of 1992.

198. In July 1990 the Race Discrimination Commissioner released a report on the effects of asbestos mining operations on the Aboriginal community in the town of Baryulgil in northern New South Wales, a fact-finding project to determine if government authorities had taken effective action to decontaminate the former mining town. The research found that the Government's failure to act constituted a gross disregard for the Aboriginal inhabitants' human rights. The Commission undertook to monitor the situation closely.

199. In November 1991 the Race Discrimination Commissioner commenced a review of the situation at Baryulgil and Malabugilmah to ascertain the action that had been taken in relation to the recommendations of her 1990 report. Since the report, the New South Wales Government has undertaken ground contamination surveys and an air sampling programme to establish the nature and extent of contamination and health risk to the Baryulgil community. A programme of decontamination works for the town and stabilizing of the mine site have been prepared and are awaiting final funding approval.

200. In late 1990 the Race Discrimination Commissioner commenced investigations into the circumstances surrounding an incident involving police and Aboriginal persons on Mornington Island and the underlying causes of frustration by Aboriginal people with police and other services on the Island. Mornington Island is located in the Gulf of Carpentaria off far northern Queensland and has a predominantly Aboriginal population.

201. An initial visit to the Island took place in April 1991 and a preliminary report was prepared. It identified a number of issues relating to the administration of criminal justice on the Island, the current system of local government and various social, economic and health related issues.

202. A follow-up visit was conducted in November 1991 and a report is being prepared which aims to identify the underlying causes of frustration of Aboriginal people on the Island and to recommend strategies for improvements to Aboriginal-police relations, service delivery and other sources of disadvantage.

203. HREOC is preparing a report for the Australian Government on the situation of descendants of those South Sea Islanders brought to Australia in the mid-1800s to work in Queensland's sugar industry. The report will examine the disadvantage experienced by these descendants in such areas as employment, health and housing and the causes of this disadvantage.

204. The research follows on from a report by the Evatt Foundation, Australian South Sea Islanders in Australia: A Report on the Current Status of South Sea Islanders in Australia (February 1991), which found that South Sea Islander people were a dispossessed black minority group discriminated against because of their colour. The report found that they suffered discrimination similar to Aboriginal and Torres Strait Islander peoples in areas such as employment, housing, health, legal services, education, training and economic develcpment.

205. The National Agenda for a Multicultural Australia included an initiative for a community relations strategy intended to foster and promote awareness of the importance of harmonious community relations (see paras. 27-29 above). The Commission is undertaking seven national projects as its contribution to the Strategy.

206. Two community education projects aimed at Aboriginal and Torres Strait Islander Australians and Australians from non-English-speaking backgrounds involve the development of community information resource packages with a problem-solving approach. The objective is to enable community workers to give advice on strategies for resolving human rights problems at the local level. Each package will cover relevant State and federal legislation (criminal and civil) and will describe the strategies through government and non-government agencies for the protection or redress of human rights and other community relations issues. The packages are being designed as a series of units, each focusing on a particular issue area, such as education, health, housing, employment and the law.

207. The pilot of the package for Aboriginal and Torres Strait Islander peoples is being developed in Queensland and the pilot package for people of non-English-speaking background in Victoria. Although based on a similar model, each package is being tailored to the particular needs of each community.

208. A project to collect data on incidents of racist violence aims to develop national uniform procedures for collection and analysis of statistics on racist violence, intimidation and harassment so that Governments and the community can access national statistics on levels of racist violence. The procedures will require police to consider racist motivation as a factor in all reports on incidents and allegations, and thereby assist police to develop more effective community policing strategies through a better understanding of racism and prejudice.

209. A pilot project is being conducted with the NSW Police Department in Sydney, and other State and Territory Police Departments have expressed interest in piloting the procedures.

210. A national youth against racism campaign, called "Different Colours, One People", was launched in August 1992. The campaign was based on extensive consultations and research on the most effective means to promote awareness of human rights and anti-racist principles amongst young people. The resulting campaign strategy used a range of stars and high profile opinion leaders from youth culture including the music, media and sports industries as advocates to carry the campaign message. Materials were produced to help advocates to understand and speak confidently about the issues. The campaign also involved extensive liaison with government and non-government youth and education departments and organizations which in turn were encouraged to undertake their own anti-racism activities as part of a "Different Colours, One People" week. The campaign logo was also promoted through the wide dissemination of stickers and badges. These, a newsletter and other materials were assembled into a resource kit for distribution to those interested in the campaign.

211. Materials about the campaign were also disseminated as part of the International Week of Solidarity with Peoples Struggling Against Racism in March 1992.

212. A national Code of Practice is being developed for real estate agents and landlords in the private housing and rental market. The aim is to reduce the incidence of discrimination experienced by people of non-English-speaking and Aboriginal and Torres Strait Islander background in obtaining accommodation. The Code is being developed in consultation with industry and advocacy groups.

213. A training package is being designed for people who work with the victims of racist violence. The package is aimed at two levels, firstly at primary service providers such as police, teachers, community and health workers who may be the first point of contact after an incident and who need to be able to give immediate advice and support, and secondly at professional counsellors who need to appreciate the emotional and cultural issues in order to be able to provide an effective counselling service.

214. This project involves the ongoing implementation of the former Race Relations in the Workplace Project discussed above, with the intention of implementing it on a nationwide scale.

215. A draft of the training package, Diversity Makes Good Business - Managing a Multicultural Workforce, has been produced and is being tried in a number of major public and private sector organizations.

Information

216. A poster and pamphlet targeting Aboriginal and Torres Strait Islander peoples have been prepared and distributed nationally, with the aim of informing them of their rights under RDA and encouraging their use of the legislation in appropriate cases.

217. The Commission jointly funded a project by the Centre for Independent Journalism at the University of Technology, Sydney, to improve media reporting of issues involving Aboriginal people and people of non-English-speaking backgrounds. The Centre has produced a resource book designed for working journalists, giving clear guidelines on acceptable terminology and behaviour, facts about matters such as land rights and immigration, and myths to avoid. In addition, the Centre has commenced work on a textbook for use with media students to train a new wave of journalists, broadcasters and producers who should be more sensitive to race and ethnicity issues.

218. In addition to these major projects, the HREOC is involved in additional programmes designed to promote and protect human rights as necessary. These are described below.

Education and teaching

219. HREOC has an ongoing, day-to-day role in assisting teachers, tertiary and high-school students, community groups and other members of the public in researching racial discrimination issues as well as furnishing written information and providing speakers. The Commission also links into other Government initiatives on racism. For example, the Commission made submissions to the New South Wales Department of School Education on their development of an anti-racist policy for schools (see. para. 57). The Commission has also provided speakers for new high school courses for Year 11 and 12 on Aboriginal Studies and Legal Studies (with an Aboriginal component).

220. The Commission developed a human rights curriculum package for use in upper primary and lower secondary schools. It was probably the first time in the world that such a resource had been developed, and the programme's Director was subsequently invited by the United Nations to write a draft manual about teaching human rights for worldwide use.

Culture

221. Human Rights Week, coordinated by the Commission, allows a very public demonstration of the work that the Commission does. It is held in December to include Human Rights Day, the anniversary of the Universal Declaration of Human Rights. Each Commissioner undertakes a number of public speaking engagements and many other activities take place around Australia.

222. The Human Rights Awards, presented during the week, acknowledge the promotion of public understanding and discussion of human rights in Australia through the media, in literature and through film. Categories for song-writing and regional print media were added in 1991, and it is expected a youth category will be added soon. The major award, the Human Rights Medal, is presented annually to an individual in recognition of a substantial contribution to the promotion and advancement of the rights of all people to live in a fair and just society.

Information

223. The Commission continues to have a broad publications programme. For example, the Commission published two research papers prepared for the National Inquiry into Racist Violence, these being: A Study of Aboriginal Juveniles and Police Violence and Aboriginal-Police Relations in Redfern. The Commission also publishes and widely distributes explanatory leaflets and pamphlets on the legislation it administers, including pamphlets and a poster on the RDA. As mentioned above, a specific set of pamphlet and poster on the Act has been developed for Aboriginal communities.

224. The Privacy Commissioner has also recently developed a series of pamphlets explaining the operation of the Privacy Act in four community languages: Spanish, Arabic, Vietnamese and Chinese, to be distributed through Migrant Resources Centres and ethnic community workers throughout Australia.

225. In addition to community education and research, the Commission undertakes public inquiries into possible breaches of human rights. These inquiries endeavour to promote human rights principles in the public area and to educate the public to education value, often bringing new insights into human rights problems. Public inquiries completed or in progress since January 1991 are discussed in the following paragraphs.

226. National inquiry into racist violence. This inquiry was mentioned in the eighth CERD report and its findings outlined under article 4 above.

227. The Commission is already undertaking several projects to assist in the implementation of some of the recommendations of the inquiry, covering such areas as media reporting of issues relating to race and ethnicity, community education packages for Aboriginal and Torres Strait Islander people and people of non-English-speaking background, data collection on the incidence of racist violence, a code for the private rental market and a training packaging for counselling the victims of racist violence. Each of these projects which are outlined above has sought to target specific needs and provide people with practical skills and information to tackle racism and other human rights violations.

228. The Australian Government's response to the inquiry and the Royal Commission into Aboriginal Deaths in Custody foreshadowed new responsibilities for the Commission:

> "The Commission would also have a 'watchdog' role and would provide to the Government every year separate 'State of the Nation' reports on the human rights situation of Aboriginal and Torres Strait Islander peoples and peoples of non-English-speaking background, noting that these issues may be different in scope and detail."

229. The production of the annual Aboriginal and Torres Strait Islander "State of the Nation" report is the responsibility of the Aboriginal and Torres Strait Islander Social Justice Commissioner, who was appointed to the Commission in January 1993 (see, para. 38).

230. The annual "State of the Nation" report on the human rights situation of people of non-English-speaking background is the responsibility of the Race Discrimination Commissioner. It will provide a broad qualitative assessment of Australia's progress towards achieving social justice for its citizens of non-English-speaking background in compliance with the International Convention on the Elimination of All Forms of Racial Discrimination. The first "State of the Nation" report will be tabled in Parliament in the second half of 1993.

231. Cooktown report. As mentioned in the eighth CERD report, an inquiry was conducted into the provision of health services to Aboriginal communities in Cooktown, Hopevale and Wujal Wujal in far northern Queensland. The Commission determined to hold a public inquiry in response to allegations raised during preliminary investigation of two specific complaints under the RDA alleging discrimination in the provision of certain treatment to Aboriginal persons. The report of the inquiry was released in August 1991.

232. The inquiry found that the provision of health services to Aboriginal and Torres Strait Islanders in Cooktown, Hopevale and Wujal Wujal was inadequate and at times culturally inappropriate. It also found that:

(a) Community members suffer from a legacy of dispossession, poverty and racism which has a continuing impact upon their health;

(b) There had been insufficient involvement by Aboriginal Councils and community members in government decision-making processes concerning their health needs and lives generally;

(c) There was a lack of appropriate and accredited training for Aboriginal and Torres Strait Islander health workers;

(d) The rights of Aboriginal women to choose where and how they gave birth had been disregarded.

233. The inquiry found that nurses at Hopevale and Wujal Wujal were highly dedicated and attempted to meet the diverse needs of the communities. None the less, it found that nurses need special training to work in remote areas and to appreciate and respond to cultural differences. Similarly medical

practitioners need opportunities to develop a better understanding of Aboriginal and Torres Strait Islander cultures.

234. Most of the evidence given to the inquiry indicated that the focus for achieving culturally appropriate services for the communities should be on primary health care.

235. During the inquiry, the Queensland Government was undertaking a major restructuring of health service delivery and that process has acknowledged many of the problems governing the provision of services to remote Aboriginal and Islander communities. The restructuring included the incorporation of Hopevale and Wujal Wujal into the public hospital system and significant upgrading of the communities facilities and services.

236. The report of the inquiry recommended strategies to:

(a) Increase the involvement of Aboriginal and Torres Strait Islander peoples, and the recognition of primary health care principles, in the design and delivery of health services to the communities;

(b) Ensure health professionals and administrators receive appropriate cross-cultural training;

(c) Increase Aboriginal and Torres Straits Islander women's involvement in identifying and developing programmes to address their needs and concerns.

237. The Commission is currently conducting a National Inquiry into the Human Rights of People and Mental Illness. The inquiry's terms of reference include the consideration of:

(a) Any discrimination on the basis of mental illness in Commonwealth laws or programmes;

(b) Any discrimination in employment, occupational accommodation or access to goods and services on the basis of mental illness;

(c) Human rights in relation to institutional and non-institutional care and treatment of persons with mental illness.

238. The inquiry's report, which will be released in the second half of 1993, will address the particular needs of especially disadvantaged groups in the community including Aboriginal and Torres Strait Islander peoples and people from non-English-speaking backgrounds.

Other measures

239. An important issue for the maintenance of heritage and culture of indigenous people is that of language preservation. Of the approximately 250 Aboriginal languages spoken in 1788, only approximately 20 languages are still spoken and passed to the next generation.

240. The Aboriginal Languages Initiatives Program (ALIP) of the Federal Government is the focus of the community-based efforts to preserve and enhance a vital part of the heritage of Australia's Aboriginal and Torres Strait Islander peoples. Under ALIP the Federal Government trebled financial support for language activities to $3 million per annum from the 1992-1993 fiscal year.

241. A major national conference was held in May 1993 to initiate action leading to a role for the Australian media in improving relations between Aboriginal and Torres Strait Islander peoples and the wider community.

242. The Federal Bureau of Consumer Affairs conducted a consumer education project for ethnic communities which was described in Australia's eighth report. The project was funded by the National Agenda for a Multicultural Australia and its purpose was to provide information about consumer rights, responsibilities and ways of solving consumer problems. The project was aimed at those people with poor or no English language skills and sought to provide them with information to which the rest of the community already had access.

243. Evaluation of the campaign indicated that it was well received and successful. Evaluation survey respondents acknowledged the benefit of the campaign and were very positive about the fact that it had been conducted in their own languages. They also indicated that they believed the level of awareness and knowledge about consumer issues has been considerably increased.

244. As a result of concern at the lack of basic consumer information among Aboriginal consumers and at the practices of some companies towards disadvantaged communities, including Aboriginal communities, the Trade Practices Commission appointed an Aboriginal Consumer Education Officer in the Northern Territory in June 1992. The position is seen as the first in a network of community-based consumer advisers and advocates in Aboriginal communities throughout Northern Australia.